

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 3:02-cr-148

WILLIAM L. JOHNSON,

Defendant.

MEMORANDUM OPINION AND JUDGMENT ORDER


The Court has reviewed the Defendant's Motion For Modification of Currently Imposed Sentence Pursuant to 18 U.S.C. 3582 (c)(2) and Retroactive Amendment Application of Parts A & C of Amendment 750 (Documents 117 and 119). On November 1, 2010, pursuant to the Fair Sentencing Act of 2010, the United States Sentencing Guidelines were amended resulting in reductions in the guidelines in Section 2D1.1 for cocaine base. These temporary, emergency amendments to the Guidelines took effect on November 1, 2010. Permanent amendments implementing the Act were promulgated on April 6, 2011, with an effective date of November 1, 2011. Subsequently, the Sentencing Commission voted to give retroactive effect to the permanent amendments. Pursuant to a Standing Order entered on October 7, 2011, this case was designated to proceed under the Standard Procedure. The Court has received materials submitted by the Probation Office and the parties on this issue. Additionally, the Court has reviewed the entire record herein.

The Defendant was sentenced as a career offender. For this reason, his sentencing range is unchanged as a result of the Fair Sentencing Act of 2010 and the November 1, 2011, Sentencing

Guidelines amendment, and he is, therefore, not eligible for a reduction of his sentence. In their respective written responses, both the United States and the Defendant acknowledge that the Defendant is not eligible for a sentence reduction. (Documents 121 and 122). For these reasons, the Court **ORDERS** that the Defendant's Motion For Modification of Currently Imposed Sentence Pursuant to 18 U.S.C. 3582 (c)(2) and Retroactive Amendment Application of Parts A & C of Amendment 750 (Documents 117 and 119) be **DENIED**.

The Clerk is **DIRECTED** to send a copy of this Order to the Federal Public Defender, to the Defendant, to the United States Attorney and to the United States Probation Office.

ENTER: January 27, 2012


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA